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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,789	11/12/2003	Gregory Bret Turetzky	ST00014C2(107-US-C2)	7800

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EXAMINER

ISSING, GREGORY C

ART UNIT

PAPER NUMBER

3662

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/712,789	Applicant(s) TURETZKY ET AL.	
	Examiner Gregory C. Issing	Art Unit 3662	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1- 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 has not been correctly amended since in line 3, "canned window" should be "scanned window," and several lines of text are missing from line 6. The missing text includes the antecedent basis for the "at least one characteristic." Additionally, the missing text would appear to correct the problem associated with the language "determining whether the incoming signal from an auto-correlated signal."

In claim 2, the language "the first data path, the second data path, are located" is grammatically incorrect.

In claim 5, the language "a different delay of the same satellite code being stronger than a correlation" is indefinite since it is not clear how a "delay" is stronger. The same problem is present in claim 6.

In claim 7, line 3, the first parenthesis is missing or the second is misplaced. The language "controlled by a second" is not clear, it would appear that a second "central processing unit" or "CPU" would be required.

In claim 9, the language "the cellular telephone use a single local oscillator" is grammatically incorrect.

In claim 15, the language "position calculation is determined position of the GPS receiver" is grammatically incorrect.

3. The applicant is required to continue to update the specification with respect to the related, pending applications.

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

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A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

5. Claim 1-20 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-20 of U.S. Patent No. 6,680,695. Although the conflicting claims are not identical, they are not patentably distinct from each other because the communication system set forth in the preamble by definition includes transmission and reception of signals and the dependent claims further define the communication system as a cellular telephone. Moreover, since the system receives GPS signals and processes the GPS signals, the communication system obviously, if not inherently, meets the scope of a GPS receiver.

6. Claims 1-20 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-20 of U.S. Patent No. 6,466,161. Although the conflicting claims are not identical, they are not patentably distinct from each other because it would have been obvious to a skilled artisan in the art of navigation receivers, i.e. GPS receivers, to provide position information to the user. Moreover, since the system receives GPS signals and processes the GPS signals, the system obviously, if not inherently, meets the scope of comprising a GPS receiver.

7. Claims 1-20 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-20 of U.S. Patent No. 6,707,423. Although the conflicting claims are not identical, they are not patentably distinct from each other because it would have been obvious to a skilled artisan in the art of navigation receivers, i.e. GPS receivers, to provide position information to the user. Moreover, since the system receives GPS signals and processes the GPS signals, the system obviously, if not inherently, meets the scope of comprising a GPS receiver.

8. Claims 1-20 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-20 of copending Application No. 10/775,870. Although the conflicting claims are not identical, they are not patentably distinct from each other because it would have been obvious to a skilled artisan in the art of navigation receivers, i.e. GPS receivers, to

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provide position information to the user. Moreover, since the system receives GPS signals and processes the GPS signals, the system obviously, if not inherently, meets the scope of comprising a GPS receiver.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

9. Claims 1-20 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-20 of U.S. Patent No. 6,529,829 in view of Oshizawa (5,987,381). All of the limitations of the instantly claimed system are included in US patent 6,529,829 with the exception of the preamble language and further dependent claims directed to a communication system. Oshizawa show the obviousness of an integrated system including GPS, dead reckoning and wireless communications. Thus, it would have been obvious to the skilled artisan to include wireless communication in the dead reckoning system of patent 6,529,829.

10. The applicants' statement that the amendment overcomes the double-patenting rejections is not convincing.

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

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12. Claims 1-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Townsend et al (6,788,251).

13. Townsend et al disclose an integrated GPS receiver and data receiver which may comprise a receiver for receiving cellular signals (8:26-35). The data received on the cellular link may comprise ephemeris data, navigation bits, time synchronization, base station coordinates and differential corrections (8:26-34). Figure 8 represents the steps/means for operating the system including a first path comprised of the output of memory 4 (804) directed to signal correlation and tracking unit 13 (813), which reads on the claimed first path, and second path comprised of the output of memory 4 (804), correlator 13 (813), "ghost satellite cancellation" signal, subtractor 5 (805), filter block 6 (806), non-coherent accumulator 8 (808), and iterating estimator of pseudoranges 9 (809), which reads on the claimed second path. The signal correlation and tracking unit is conventional and operates in a conventional manner including correlating the received signal to a locally PN coded signal. Additionally, the second path "verifies the incoming GPS signal" by determining ghost satellite signals (undesired signals), cancels the ghost signals and aids the correlator by providing C/A code and delay estimates. Each of the paths is further coupled to position computer 15 (815) which reads on the central processing unit.

14. Claims 1-20 are rejected under 35 U.S.C. 102(a/e) as being anticipated by Durboraw, III et al (5,995,042).

Durboraw, III et al teach an SAR transceiver incorporating a GPS receiver and a wireless communication transceiver. The GPS receiver module 110 incorporates a C/A correlator of conventional design with an output to a central processing unit 115. Additionally, the output of the C/A correlator has a second path which detects noise 114 as well as integrity data 124 and wherein the respective outputs are coupled to the central processing unit 115. The noise detector may include a conventional correlator and detects if there is excessive noise which may be caused by a jammer or by a weak signal whereby jamming is confirmed if the AGC has also reduced the gain. Thus, Durboraw, III et al suggest an integrated unit combining GPS and wireless communication wherein the GPS portion includes first and second paths coupled to a central processing unit 115 via the path from the RF circuit to the C/A unit to

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the CPU and the path from the RF circuit to the C/A unit to the noise detector/RAIM circuit to the processor.

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Rog et al (6,441,781) disclose a correlator for a navigation receiver that performs a fast search or a slow search on the basis of the signal level detected. Krasner (5,874,914) teaches an integrated communication system that combines a navigation receiver and a cellular transceiver 22 wherein the cellular transceiver may receive information from a base station that aids the navigation receiver as well as may transmit positional information to a base station for remote tracking thereof. The navigation receiver and communication transceiver share a common central processing unit 32. Adjacent groups of N frames of data within a block are coherently added to one another to generate averaged frames which are correlated with a locally generated PN reference signal to determine timing information (12:14-67).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory C. Issing whose telephone number is (571)-272-6973. The examiner can normally be reached on Monday - Thursday 6:00 AM- 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Tarcza can be reached on (571)-272-6979. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Gregory C. Issing
Primary Examiner
Art Unit 3662

gci